

DAVID CHIU, State Bar #189542
City Attorney
MEREDITH B. OSBORN, State Bar #250467
Chief Trial Deputy
KAITLYN MURPHY, State Bar #293309
ALEXANDER J. HOLTZMAN, State Bar #311813
Deputy City Attorneys
Fox Plaza
1390 Market Street, 6th Floor
San Francisco, California 94102-5408
Telephone: (415) 554-6762 [Murphy]
Telephone: (415) 554-3999 [Holtzman]
Facsimile: (415) 554-3837
Email: kaitlyn.murphy@sfcityatty.org
Email: alexander.holtzman@sfcityatty.org

Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO,
AND PAUL MIYAMOTO, IN HIS OFFICIAL
CAPACITY AS SAN FRANCISCO SHERIFF

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOSHUA SIMON, DAVID BARBER, AND
JOSUE BONILLA, INDIVIDUALLY AND
ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED, DIANA BLOCK,
AN INDIVIDUAL AND COMMUNITY
RESOURCE INITIATIVE, AN
ORGANIZATION,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, PAUL MIYAMOTO, IN HIS
OFFICIAL CAPACITY AS SAN
FRANCISCO SHERIFF,

Defendants.

Case No. 4:22-cv-05541-JST

**DEFENDANTS' ADMINISTRATIVE MOTION
FOR LEAVE TO FILE THE DECLARATION
OF UNDERSHERIFF KATHERINE JOHNSON
ON THE SUPERIOR COURT'S REVISION TO
THE PRETRIAL ELECTRONIC
MONITORING PROGRAM ORDER IN
OPPOSITION TO PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Judge:	Hon. Jon S. Tigar
Courtroom:	Courtroom 6, 2nd Floor
Date:	February 2, 2023
Time:	2:00 p.m.
Trial Date:	Not Set

1 Pursuant to Civil Local Rules 7-3(d) and 7-11, Defendants the City and County of San
2 Francisco and Sheriff Paul Miyamoto, in his official capacity as the San Francisco Sheriff, file this
3 Administrative Motion for Leave to File the Declaration of Undersheriff Katherine Johnson on the
4 Superior Court's Revision to the Pretrial Electronic Monitoring Program Order in Opposition to
5 Plaintiffs' Motion for Preliminary Injunction ("Administrative Motion"). Plaintiffs declined to
6 stipulate to the filing of the declaration. *See* Declaration of Kaitlyn Murphy in Support of
7 Administrative Motion for Leave to File the Declaration of Undersheriff Katherine Johnson on the
8 Superior Court's Revision to the Pretrial Electronic Monitoring Program Order in Opposition to
9 Plaintiffs' Motion for Preliminary Injunction ¶ 3.

10 The Declaration of Undersheriff Johnson explains that the Superior Court of the State of
11 California, County of San Francisco has approved revisions to the order the criminal court enters in
12 releasing pretrial criminal defendants from custody subject to participation in the Pretrial Electronic
13 Monitoring ("PTM") Program. The revised order is attached as Exhibit A to Undersheriff Johnson's
14 declaration. The prior version of the order is on the docket at ECF No. 22-2, at 15. Revised oral
15 admonitions are attached as Exhibit B to Undersheriff Johnson's declaration. As described in greater
16 detail in Undersheriff Johnson's declaration, it is expected that the Superior Court will begin to use the
17 revised order and accompanying revised admonitions starting on or around Monday, May 8, 2023.

18 The developments described in Undersheriff Johnson's Declaration are relevant to the Court's
19 analysis of matters before it including Plaintiffs' Motion for a Preliminary Injunction (ECF No. 22).
20 Courts properly consider preliminary injunction motions based on the current circumstances. *See Rose*
21 *v. Rhorer*, No. 13-CV-03502-WHO, 2013 WL 5913656, at *2 n.1 (N.D. Cal. Oct. 31, 2013) ("The
22 Court GRANTS the City's motion for leave to file supplemental material as the supplemental material
23 appropriately apprises the Court of new factual developments material to the plaintiffs' motion for a
24 preliminary injunction."); *Language Line Servs., Inc. v. Language Servs. Assocs., Inc.*, No. CV 10-
25 02605 RS, 2013 WL 12173920, at *2 (N.D. Cal. June 25, 2013) ("preliminary injunctions are
26 ambulatory remedies").

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1 For the above reasons, the Court should grant Defendants leave to file Undersheriff Johnson's
2 Declaration.

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4 Dated: May 3, 2023

5 DAVID CHIU
6 City Attorney
7 MEREDITH B. OSBORN
8 Chief Trial Deputy
9 KAITLYN MURPHY
10 ALEXANDER J. HOLTZMAN
11 Deputy City Attorneys

12 By: /s/ Kaitlyn Murphy
13 KAITLYN MURPHY

14 Attorneys for Defendants
15 CITY AND COUNTY OF SAN FRANCISCO, PAUL
16 MIYAMOTO, IN HIS OFFICIAL CAPACITY AS SAN
17 FRANCISCO SHERIFF
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